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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,660	01/15/2004	John G. Fischer	JGF 02775 PTUS	5884
32233	7590	11/01/2005	EXAMINER	
STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			LIOU, JONATHAN	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action SummaryApplication No. **(X)**

10/758,660

Applicant(s)

FISCHER, JOHN G.

Examiner

Jonathan Liou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/15/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Applicant's Response RE: Claims 1-4, 6-8 and 10, filed 07/29/2005, with respect to the rejection(s) of claim(s) 1-13 under Reese (US Pat. 6,236,980) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tsai et al. (US Pat. No. 6,352,432.)

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Tsai et al. (US Pat. 6,352,432.)

4. As per claim 1, Tsai et al. teaches a method of displaying competitive product performance data (**col 2, lines 28-49, Tsai et al., and Fig. 12.**) comprising steps of:

determining a first/second product value representing a first/second product's performance (**Tsai et al. teach a different microphone input to represent the first and second signer voice. The voice quality value would be generated and determined. Col 2, lines 1-11, Tsai et al.**)

solving for a contest value between the first product value and the second product value; **(Tsai et al. teach comparing first performance score and second performance score. The contest value would obtain by whoever has lower score point and that would be the contest value. See col 11, lines 6-62, Tsai et al.)**

selecting an animated contest file by relationship to the contest value; and, providing a display means for displaying the animated contest. **(Tsai et al. teach if the point of performance 1 is higher, a character animation in which character 1 plays tricks corresponding to the frequency point to character 2 is displayed. And vice versa. In addition, Tsai et al. teaches different animation, which could be an animated contest file. See col 11, lines 6-62, Tsai et al.)**

5. As per claim 2, Tsai et al. teach the association of a range of contest values to an animated contest file **(Tsai et al. teach when two performance value are tight, characters 1 and 2 glare at each other is displayed. When performance score value of character 1 is higher or lower than the other performer 2, the different animation contest would be appeared. The contest value would be 0 while they are tight. While performance score point for performer 1 is higher than 2, the contest would 2. While performance score point for performer 2 is higher than 1, the contest would 1. See col 11, lines 6-62, Tsai et al.)**

6. As per claims 6 and 7, Tsai et al. teach determining a first product value representing a first product's performance result further comprises determining a statistical representation of the first product's performance for a plurality of measurements of the first product's performance and the first product value and the

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second product value are statistical representations of multiple test results of the first product and the second product (**See col 10, lines 15-60, Tsai et al.**)

7. As per claim 8, Tsai et al. teach observing at least one qualitative test result; and, quantifying the results on a numerical scale (**See col 10, lines 15-32 and lines 49-60, Tsai et al.**)

8. As per claim 9, Tsai et al. shows the first performer's value (score points) comparing with two characters. In Fig. 12B, it shows how close their value are. In Fig. 13, it shows who wins the game. If the contest value equal to the first or second, the Fig. Would show like Fig. 13a. In addition, Tsai et al. teaches the counter to count the point for each performer's value (**See col 10, lines 15-32, Tsai et al.**)

9. As per claim 10, Tsai et al. teach graphically identifying an animated representative of the first product; and graphically identifying an animated representative of the second product (**See col 9, lines 10-29, Tsai et al.**)

10. As per claims 11 and 12, Tsai et al. teach a method of displaying competitive product performance data (**See col 3, lines 15-23, Tsai et al.**), comprising the steps of:

determining a first product value representing a first product's performance;

determining a second product value representing a second product's

performance; (**Tsai et al. teach a different microphone input to represent the first and second signer voice. The voice quality value would be generated and determined. Col 2, lines 1-11, Tsai et al.**)

associating the (first, second) product value to a (first, second) animated character performance / associating the (first, second) product value to a performance

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variable of a (first, second) animated character; and displaying an animated contest between the first animated character and the second animated character (**See col 4, lines 50-55, and col 10, lines 15-33, Tsai et al.**)

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai et al. (US Pat. 6,352,432.)

13. As per claims 3-4, Tsai et al. teach providing a display means for displaying the animated contest. Tsai et al. teach the animated contest image file as shown in Fig. 13. The user could select the tricks as the animated contest image file (See col 12, lines 21-28, Tsai et al.) Tsai et al. does not specifically teach the web page for internet user accessing the animated contest file. However, from the apparatus of Fig. 1, it would have obvious to implement the method of Tsai et al.'s system into the computer system. Since Tsai et al. teaches the selection of tricks (See col 12, lines 21-28, Tsai et al.) and the apparatus of the structure (See Fig. 1, Tsai et al.), it would have been obvious for one who have ordinary skill in the art at the time the invention was made to have web page for initiation by internet user and displaying the animated contest on a web page because the computer video game via internet system has been used in many video

game system and by providing the web page for the user to select and view the animated contest, it would give the user to compete with other internet user through networking system without going to the fix video station to play.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Afsah (US Pat. No. 6,509,730.), in view of Ekrem (US Pub. No. 2002/0138295.).

15. As per claim 13, Afsah teaches displaying competitive product performance data (See col 1, lines 56-61, Afsah.) comprising the steps of:

determining a first product value representing a first product's performance on a test; determining a second product value representing a second product's performance on the test; adding the first product value to a database of other product values of other product performances on the test; adding the second product value to the database of other product values of other product performances on the test; determining a statistical numerical representation of the database; solving for a first contest value between the first product value and the statistical numerical representation; and, solving for a second contest value between the second product value and a statistical numerical representation; (Afsah teaches determining the first and second indicator value, which could be interpreted as the first and second product value. (See col 2, lines 9-11, Afsah.) Afsah also shows each facilities have variety of indicators (See col 1, lines 62-65, Afsah.) Hence, the first indicator value is added to a database in order to compare with other indicator values. Further, the benchmark value is generated (See col 2, lines 14-17, Afsah.), and the benchmark value could be the statistical numerical

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representation of the database as claimed. Solving for the performance value as the contest value as claimed. (See col 2, lines 14-24, Afsah.)

In addition, Afsah teaches comparing the first and second performance values (See col 2, lines 23-24, Afsah.) Afsah does not teach the animated character to associate with the contest value. However, Ekrem teaches to apply the animated character to the data value (See sec [0039]-[0040], Ekrem.) Since, Afsah also teaches comparing two performance values, it would have been obvious to display a contest between two animates characters. Since Ekrem teaches method based on benchmark performance data value (See sec [0026], Ekrem.), it would have been obvious for one having ordinary skill in the art at the time the invention was made to associate the performance value to animated character and have the animated contest character for comparing two performance value because this would provide the easier comparison for the consumer to compare two performance data by looking the animated graphic display rather than looking at the statistical values.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Liou whose telephone number is 571-272-8136. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan Liou

10/31/2005


RICKY NGO
PRIMARY EXAMINER
10/31/05